

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

RUBEN DAVIS,

Defendant.

12-CR-712 (SHS)

ORDER

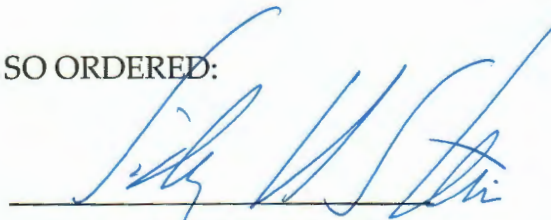
SIDNEY H. STEIN, U.S. District Judge.

On July 7, 2020, this Court denied defendant Ruben Davis' motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A). (Order, ECF No. 684.) Davis now renews his motion. (Def.'s Mot., ECF No. 733.) Because nothing in Davis' renewed motion alters this Court's determination that a sentence reduction would be inconsistent with the factors set forth in 18 U.S.C. § 3553(a) and that there are no extraordinary and compelling reasons for a sentence reduction in this case, defendant's renewed motion for compassionate release is denied.

To the extent that Davis seeks release based on his actual innocence, *see* Def.'s Mot. at 10-12, such a request "must be viewed as a successive petition under 28 U.S.C. § 2255" because Davis previously filed a section 2255 petition that was denied by this Court in 2018. *See* Order, ECF No. 639; *United States v. Nunez-Reynoso*, No. 10-CR-69, 2021 WL 247909, at *1 (D. Minn. Jan. 25, 2021). "A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals." 28 U.S.C. § 2255(h). Because defendant has not "moved in the appropriate court of appeals for an order authorizing the district court to consider a second or successive application," 28 U.S.C. § 2244(b)(3)(A), defendant's request for relief under section 2255 is dismissed. The Clerk of Court shall mail a copy of this Order to defendant at the following address: Ruben Davis [67871-054], FCI Danbury, Federal Correctional Institution, Route 37, Danbury, CT 06811.

Dated: New York, New York
April 28, 2021

SO ORDERED:



Sidney H. Stein, U.S.D.J.